

MDR Tracking Number: M5-04-0813-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 11-17-03.

The IRO reviewed therapeutic activities, office visits, ultrasound, electrical stimulation, myofascial release, therapeutic exercises, ROM, neuromuscular re-education, manual traction, manipulations, and FCE from 1-23-03 through 9-3-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. The IRO agreed with the previous adverse determination that the ultrasound, electrical stimulation, neuromuscular re-education, and manual traction **were not** medically necessary. The IRO concluded that the office visits, therapeutic activities, therapeutic exercises, myofascial release, ROM, manipulations, and the FCE **were** medically necessary. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 2-18-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice. The requestor failed to submit relevant information to support components of the fee dispute in accordance with Rule 133.307(g)(3)(A-F). The requestor submitted a position statement. Therefore, no review can be conducted and no reimbursement recommended for the fee issues.

This Decision is hereby issued this 7th day of May 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 1-23-03 through 9-3-03 in this dispute.

This Order is hereby issued this 7th day of May 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

February 17, 2004

Amended May 6, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

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IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

The patient was injured pulling a wooden chair and fell, causing her to strike the chair and injuring both of her shoulders, low back and both knees. She initially sought care from ___ and eventually was referred to ___ for consideration of surgical intervention. A partial thickness tear of the rotator cuff was discovered, along with should impingement on the left shoulder and joint arthropathy. The patient was treated with extensive passive and active care both before and after the surgery and was found to be at MMI with 20% whole person impairment as of October 2, 2003 by ___.

DISPUTED SERVICES

The carrier has denied the medical necessity of therapeutic activities, office visits, ultrasound, electrical stimulation, myofascial release, therapeutic exercises, ROM measurements, neuromuscular re-education manual traction, FCE and manipulations from January 23, 2003 through September 3, 2002.

DECISION

The reviewer agrees with the prior adverse determination regarding ultrasound, electrical stimulation, neuromuscular re-education and manual traction.

The reviewer disagrees with the prior adverse determination for all other treatment.

BASIS FOR THE DECISION

Passive treatment was not reasonable for this patient, even after an arthroscopic procedure was performed. Little relief would be expected from those procedures. Neuromuscular re-education is not documented, as medically necessary and neither was the extended use of manual traction. It cannot be denied that the patient was seriously injured, as witnessed from the report of the designated doctor and we must consider that the active treatment clearly benefited the patient's healthcare in this case. As a result, the remainder of the disputed services would be considered reasonable and necessary.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,